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**ORDINANCE NO. 3833**

AN INTERIM ORDINANCE OF THE CITY OF EDMONDS, WASHINGTON, ADOPTING A MORATORIUM ON THE ESTABLISHMENT OF MEDICAL MARIJUANA DISPENSARIES, DEFINING "MEDICAL MARIJUANA DISPENSARY," PROVIDING FOR A PUBLIC HEARING, REFERRING THE MATTER TO THE PLANNING BOARD FOR HEARING AND REVIEW, ESTABLISHING AN EFFECTIVE DATE AND PROVIDING THAT THE MORATORIUM, UNLESS EXTENDED, WILL SUNSET WITHIN SIX (6) MONTHS OF THE DATE OF ADOPTION.

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WHEREAS, Initiative Measure No. 692, approved November 3, 1998, created an affirmative defense for "qualifying patients" to the charge of possession of marijuana, and

WHEREAS, the initiative and current Chapter 69.51A RCW are clear that nothing in its provisions are to be "construed to supersede Washington state law prohibiting the acquisition, possession, manufacture, sale or use of marijuana for non-medical purposes," and

WHEREAS, the Washington State Department of Health opines that it is "not legal to buy or sell" medical marijuana and further opines that "the law [chapter 69.51A RCW] does not allow dispensaries," leaving enforcement to local officials, and

WHEREAS, the City acknowledges the right of qualified health care professionals to prescribe the medical use of marijuana, acknowledges the affirmative defense available to qualifying patients from the possession of marijuana as well as the right of patients to designate a "designated provider" who can "provide" rather than sell marijuana to "only one patient at any one time," and

WHEREAS, the City Council finds that the secondary impacts associated with marijuana dispensaries, include but are not limited to the invasion of the business, burglary and robbery associated with the cash and drugs maintained on the site, and

WHEREAS, the City Council finds that the sale of marijuana, no matter how designated by dispensaries, is prohibited by state and federal law,

WHEREAS, the Washington State Legislature will be considering at least one bill clarifying the legality of medical marijuana dispensaries and collective or co-operative grow operations, and pending its action, if any, the City Council deems it to be in the public interest to establish a zoning moratorium pending local review of the issue or final action by the legislature, and

WHEREAS, a public hearing was held on January 18, 2011 before the Edmonds City Council, NOW, THEREFORE,

THE CITY COUNCIL OF THE CITY OF EDMONDS, WASHINGTON, DO  
ORDAIN AS FOLLOWS:

Section 1. Pursuant to the provisions of RCW 36.70A.390, a zoning moratorium is hereby enacted in the City of Edmonds prohibiting the licensing, establishment, maintenance or continuation of any use consisting of or including the sale of medical marijuana, the provision of medical marijuana to more than one person, or the establishment of a medical marijuana dispensary. "Medical marijuana dispensary" is hereby defined as any individual, business, corporation or other entity which: 1) sells or otherwise dispenses marijuana to more than one "qualifying patient" in any thirty (30) day period or to any person who does not meet the definition of "qualifying patient" under the terms of the Act, or 2) maintains more than one one-month supply for one qualifying patient on the premises at any time, or 3) provides for the

cultivation of more than 15 plants by collective or cooperative ventures at a location. The receipt of cash or other legal tender in exchange for, contemporaneously with or immediately following the delivery of marijuana, shall be presumed to be a sale. Any person or entity which sells or otherwise dispenses marijuana to more than one person and/or qualifying patient in any thirty (30) day period or cultivates marijuana for more than one person and/or qualifying patient, shall be presumed to be a "medical marijuana dispensary."

Section 2. Medical marijuana dispensaries as defined in Section 1 are hereby designated as prohibited uses in the City of Edmonds. In accordance with the provisions of RCW 35A.82.020 and ECC 4.72.050, no business license shall be issued to a medical marijuana dispensary, which is hereby defined to be both a prohibited use under the ordinances of the City of Edmonds, and an activity which does not comply with the general laws of the state of Washington.

Section 3. This ordinance shall be referred to the Edmonds Planning Board for its review and recommendation for inclusion in the zoning ordinances of the City of Edmonds.

Section 4. Ordinance to be Transmitted to Department. Pursuant to RCW 36.70A.106, this interim Ordinance shall be transmitted to the Washington State Department of Commerce as required by law.

Section 5. Effective Date. This ordinance, being an exercise of a power specifically delegated to the City legislative body, is not subject to referendum, and shall take effect five (5) days after passage and publication of an approved summary thereof consisting of the title, PROVIDED, HOWEVER, that unless extended by the act of the Edmonds City Council, this ordinance shall expire six (6) months following its effective date.

APPROVED:

  
MAYOR MIKE COOPER

ATTEST/AUTHENTICATED:

  
CITY CLERK, SANDRA S. CHASE

APPROVED AS TO FORM:

OFFICE OF THE CITY ATTORNEY:

BY   
W. SCOTT SNYDER

FILED WITH THE CITY CLERK:	01-14-2011
PASSED BY THE CITY COUNCIL:	01-18-2011
PUBLISHED:	01-23-2011
EFFECTIVE DATE:	01-28-2011
ORDINANCE NO. <u>3833</u>	

## SUMMARY OF ORDINANCE NO. 3833

of the City of Edmonds, Washington

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On the 18<sup>th</sup> day of January, 2011, the City Council of the City of Edmonds, passed Ordinance No. 3833. A summary of the content of said ordinance, consisting of the title, provides as follows:

AN INTERIM ORDINANCE OF THE CITY OF EDMONDS, WASHINGTON, ADOPTING A MORATORIUM ON THE ESTABLISHMENT OF MEDICAL MARIJUANA DISPENSARIES, DEFINING "MEDICAL MARIJUANA DISPENSARY," PROVIDING FOR A PUBLIC HEARING, REFERRING THE MATTER TO THE PLANNING BOARD FOR HEARING AND REVIEW, ESTABLISHING AN EFFECTIVE DATE AND PROVIDING THAT THE MORATORIUM, UNLESS EXTENDED, WILL SUNSET WITHIN SIX (6) MONTHS OF THE DATE OF ADOPTION.

The full text of this Ordinance will be mailed upon request.

DATED this 19<sup>th</sup> day of January, 2011.

  
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CITY CLERK, SANDRA S. CHASE

# Affidavit of Publication

STATE OF WASHINGTON,  
COUNTY OF SNOHOMISH

} S.S.



## SUMMARY OF ORDINANCE NO. 3833

of the City of Edmonds, Washington  
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The full text of this Ordinance will be mailed upon request.  
DATED this 19th day of January, 2011.

CITY CLERK, SANDRA S. CHASE

Published: January 23, 2011.

The undersigned, being first duly sworn on oath deposes and says that she is Principal Clerk of THE HERALD, a daily newspaper printed and published in the City of Everett, County of Snohomish, and State of Washington; that said newspaper is a newspaper of general circulation in said County and State; that said newspaper has been approved as a legal newspaper by order of the Superior Court of Snohomish County and that the notice

## Summary of Ordinance NO. 3833

a printed copy of which is hereunto attached, was published in said newspaper proper and not in supplement form, in the regular and entire edition of said paper on the following days and times, namely:

January 23, 2011

and that said newspaper was regularly distributed to its subscribers during all of said period.

Handwritten signature of Jody Stohl in cursive.

Principal Clerk

Subscribed and sworn to before me this

24th

day of January, 2011

Handwritten signature of the Notary Public in cursive.

Notary Public in and for the State of Washington, residing at Everett, Snohomish County.

RECEIVED

JAN 28 2011

EDMONDS CITY CLERK